

STATE OF NEW YORK
SUPREME COURT

COUNTY OF NEW YORK

FREDERICK KRESS

Plaintiff,

SUMMONS

Index No: _____

v.

ARCHDIOCESE OF PHILADELPHIA

Defendant.

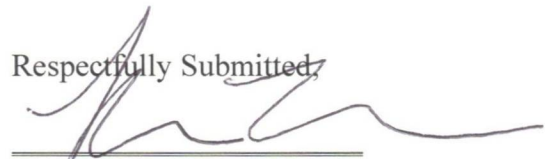
TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to Answer the attached Complaint in this action and to serve upon Plaintiff's attorneys a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a notice of appearance, on the Plaintiffs' attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York.

PLEASE TAKE NOTICE in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: November 7, 2019
New York, New York

Respectfully Submitted,



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STATE OF NEW YORK
SUPREME COURT

COUNTY OF NEW YORK

FREDERICK KRESS

Plaintiff,

v.

ARCHDIOCESE OF PHILADELPHIA

Defendant.

VERIFIED COMPLAINT
JURY TRIAL DEMANDED

Index No: _____

Plaintiff, Frederick Kress ("Plaintiff"), by and through his attorneys, Thomas LaBarbera Counselors at Law and Andreozzi & Associates, P.C., as and for their Complaint in this matter against defendant Archdiocese of Philadelphia ("Defendant"), hereby alleges as follows:

Nature of the Action

1. Plaintiff brings this action against Defendant pursuant to New York's Child Victims Act ("CVA") (N.Y. C.P.L.R. § 214-g).

Parties

2. Defendant Archdiocese of Philadelphia ("Archdiocese" or "Philadelphia Archdiocese") is a Roman Catholic Archdiocese located at 222 North 17th Street, Philadelphia, PA 19103.

3. At all relevant times, the Archdiocese created, oversaw, managed, controlled, directed and operated parishes and/or churches of the Archdiocese.

4. At all relevant times, the Archdiocese oversaw, managed, controlled, and directed all priests assigned to work in parishes and/or churches of the Archdiocese, including Father Leonard Furmanski.

5. Plaintiff Frederick Kress is an adult resident of Pennsylvania.

Jurisdiction and Venue

6. This Court has personal jurisdiction over the Defendant pursuant to NY CPLR § 302(a), in that the Archdiocese, upon information and belief:

- a. Transacts business within New York or contracts anywhere to supply goods or services in New York. Upon information and belief, such contacts include, but are not limited to, Archdiocesan parishioners who reside in New York and cross into Pennsylvania to attend Archdiocesan parishes, events, and donate to the Archdiocese and its parishes; Archdiocesan activities, trips, and retreats in New York; Archdiocesan clergy traveling into New York on Archdiocesan business; and, the transfer of Archdiocesan clergy between Pennsylvania and New York.
- b. Committed a tortious act within New York, in that the Archdiocese allowed known Archdiocesan clergy abusers, including Father Furmanski, to minister in New York and take children to New York where children were sexually abused;
- c. Committed a tortious act without New York causing injury to the Plaintiff in New York, in that the Archdiocese allowed Furmanski, a child abuser, access to Plaintiff including during a trip to New York City where Plaintiff was abused; and,
- d. Owned/owns, used/uses, and/or possessed/possesses real property situated within New York.

7. This Court, as a court of general jurisdiction, has subject matter jurisdiction over this action.

8. Venue in the County of New York is proper pursuant to NY CPLR § 503.

Facts

Sexual Abuse in the Philadelphia Archdiocese and Father Furmanski

9. As is now well-known, child sex abuse by Catholic priests was widespread, resulting in major sex abuse scandals involving Catholic Archdioceses and Dioceses around the world, including those in Boston, Los Angeles, Philadelphia, and many other cities.

10. For many years, however, the scope of the Catholic child sex-abuse epidemic was unknown.

11. Thanks to an investigation in 2002 by the Boston Globe's "Spotlight" team, made more famous by the 2015 film *Spotlight*, the public is now aware that thousands of children have been sexually abused by Catholic priests, and that many of those predator priests were protected by Catholic officials.

12. The Philadelphia Archdiocese was no different.

13. Throughout the history of the Archdiocese, many clerics associated with the Archdiocese have been accused of sexual misconduct and/or abuse.

14. The Archdiocese has thus been aware of the risk of sexual abuse by its clerics for decades, well before the sexual abuse of the Plaintiff, which is described herein.

15. Sexual abuse by Archdiocese clergy was a known, preventable hazard, which the Archdiocese failed to respond to.

16. One of the Archdiocese's priest-offenders, and the Plaintiff's abuser, was Archdiocese priest Monsignor Leonard A. Furmanski ("Furmanski").

17. Furmanski was ordained as an Archdiocese priest in 1959.

18. Thereafter, Furmanski served in numerous of the Archdiocese's parishes.

19. Furmanski began sexually abusing children early in his tenure as an Archdiocese priest, well before Plaintiff was abused.

20. Upon information and belief, the Archdiocese had actual and/or constructive knowledge regarding Furmanski's abuse of children prior to Plaintiff's abuse.

21. Upon information and belief, Archdiocesan officials and/or agents knew Furmanski was engaged in inappropriate behavior with children, before, during, and after Plaintiff's abuse.

22. From 1975 – 1977, Furmanski sexually abused the Plaintiff on average of once a week.

23. During that period, Furmanski resided on the grounds of St. Mary's Villa for Children and Families, where Plaintiff then also resided.

24. Some of Furmanski's sexual abuse of the Plaintiff occurred in New York City.

25. In approximately 1977, Furmanski convinced Plaintiff's foster parents to allow Furmanski to take Plaintiff to New York City.

26. While in New York City, Furmanski sexually abused Plaintiff in a hotel/motel.

27. Upon information and belief, the Archdiocese knew, or should have known, that Furmanski took Plaintiff and/or other young parishioners to New York.

28. Like other Catholic Dioceses and Archdioceses, the Archdiocese transferred Furmanski to protect Furmanski and the Archdiocese instead of the children of the Archdiocese, including the Plaintiff.

29. At no time did the Archdiocese make Plaintiff or his family aware of Furmanski's history, or of the known risk of abuse posed by him and other Catholic clergy.

30. Furmanski used his position with the Archdiocese to sexually abuse the Plaintiff.

31. The Archdiocese held Furmanski out to the Plaintiff and his family as the Archdiocese's agent, who had been appropriately vetted, screened, and approved.

32. The Plaintiff and his parents reasonably relied on the acts and representations of the Archdiocese and its agents regarding Furmanski.

33. The Plaintiff and his parents implicitly trusted Furmanski due to Furmanski's relationship to the Archdiocese.

34. The Archdiocese's actions and omissions herein were willful, wanton, and/or reckless.

35. As described, Furmanski sexually abused the Plaintiff, in addition to other children.

36. As a direct result of the Defendant's conduct described herein, Plaintiff suffered and will continue to suffer as follows:

- a. Severe and permanent emotional distress, including physical manifestations of emotional distress;
- b. Deprivation of the full enjoyment of life;
- c. Expenses for medical and psychological treatment, therapy, and counseling; and,
- d. Loss of income and/or loss of earning capacity.

Causes of Action

First Cause of Action Negligent Retention and Negligent Supervision

37. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint as if fully set forth herein.

38. Defendant owed a duty of care to all minor persons, including Plaintiff, who were likely to encounter Furmanski in his role as priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendant.

39. Defendant owed a duty of care to all minor persons, including Plaintiff, to ensure Furmanski did not use his position to injure minors by sexual assault, abuse, and/or sexual contact.

40. Defendant had an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for him.

41. Defendant negligently, grossly negligently, and/or recklessly hired, retained, and supervised Furmanski though they knew or should have known that Furmanski posed a threat of harm to minors.

42. Defendant negligently, grossly negligently, and/or recklessly retained Furmanski with actual or constructive knowledge of Fr. Furmanski's propensity for the type of behavior which resulted in Plaintiff's injuries in this action.

43. Defendant failed to investigate Fr. Furmanski's past and/or current history of sexual abuse and, through the exercise of reasonable diligence, should have known of Fr. Furmanski's propensity for child sexual abuse.

44. Defendant should have made an appropriate investigation of Fr. Furmanski and failed to do so, which would have revealed the unsuitability of Fr. Furmanski for continued employment and it was unreasonable for Defendant to retain Fr. Furmanski in light of the information they knew or should have known.

45. Defendant negligently retained Fr. Furmanski in a position where he had access to children and could foreseeably cause harm which Plaintiff would not have been subjected to had Defendant taken reasonable care.

46. In failing to timely remove Fr. Furmanski from working with children or terminate the employment of Fr. Furmanski, Defendant failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

47. Defendant knew or should have known of Furmanski's propensity for sexual assault, abuse, and/or sexual contact with minors, the same conduct which caused Plaintiff's injuries.

48. Defendant knew or should have known of Furmanski's propensity for sexual assault, abuse, and/or sexual contact with minors prior to, or at the time of, Plaintiff's injuries.

49. The Plaintiff's sexual abuse by Furmanski was foreseeable, *i.e.*, Defendant were on notice of prior similar incidents and Plaintiff's sexual abuse was the proximate result of Defendant's negligent hiring, retention, and supervision of Furmanski.

50. Furmanski's acts described herein were undertaken, and/or enabled by, and/or during the course, and/or within the scope of Furmanski's employment, appointment, assignment, and/or agency with Defendant.

51. Defendant took no precautions to prevent Plaintiff's injuries.

52. Defendant failed to take reasonable precautions to prevent Plaintiff's injuries.

53. Defendant gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others.

54. Defendant failed adequately to supervise the activities of Furmanski.

55. Defendant failed to protect against or warn the Plaintiff or his family of the known risk of priest abuse within the Archdiocese.

56. Defendant permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, upon premises or with instrumentalities under their control.

57. Defendant allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint to occur.

58. Defendant's actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiff.

59. As a direct and proximate result of Defendant's actions and omissions, Plaintiff suffered and will continue to suffer injuries, as described herein.

60. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

Second Cause of Action
Negligence/Gross Negligence/Recklessness

61. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint as if fully set forth herein.

62. Each Defendant owed Plaintiff a duty of reasonable care to protect the Plaintiff from injury.

63. Each Defendant owed Plaintiff a duty of care because each Defendant had a special relationship with Plaintiff. Defendants also had a duty arising from the special relationship that existed with Plaintiff, Plaintiff's parents, and other parents of young, innocent, vulnerable children in the Archdiocese to properly train and supervise its clerics.

64. This special relationship arose because of the high degree of vulnerability of the children entrusted to their care. As a result of this high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, Defendants had a duty to establish measures of protection not necessary for persons who are older and better able to safeguard themselves.

65. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because each Defendant also had a special relationship with Fr. Furmanski.

66. Defendants owed Plaintiff a duty of reasonable care because they solicited youth and parents for participation in their youth programs; encouraged youth and parents to have the youth participate in their programs; undertook custody of minor children, including Plaintiff; promoted their facilities and programs as being safe for children; held their agents, including Fr. Furmanski, out as safe to work with children; encouraged parents and children to spend time with

their agents; and/or encouraged their agents, including Fr. Furmanski, to spend time with, interact with, and recruit children.

67. As a result of Plaintiff being a minor, and by Defendants undertaking the care and guidance of the Plaintiff, Defendants also held a position of empowerment over Plaintiff.

68. Further, Defendants, by holding themselves out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment.

69. Defendants, through its employees, exploited this power over Plaintiff and, thereby, put the minor Plaintiff at risk for sexual abuse.

70. By establishing and/or operating the Archdiocese, accepting the minor Plaintiff as a participant in their programs, holding their facilities and programs out to be a safe environment for Plaintiff, and accepting custody of the minor Plaintiffs, Defendants entered into an express and/or implied duty to properly supervise Plaintiff and provide a reasonably safe environment for children.

71. Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from foreseeable dangers.

72. Defendants had the duty to exercise the same degree of care over minors under their control as a reasonably prudent person would have exercised under similar circumstances.

73. By establishing and operating the Archdiocese, Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from generally foreseeable dangers.

74. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because Defendants invited Plaintiff onto their property and Fr. Furmanski posed a dangerous condition on Defendants' property.

75. Each Defendant breached its duties to Plaintiff. Defendants failed to use ordinary care in determining whether their facilities were safe and/or determining whether they had sufficient information to represent their facilities as safe. Defendants' breach of their duties include, but are not limited to: failure to protect Plaintiff from a known danger, failure to have sufficient policies and procedures in place to prevent child sex abuse, failure to properly implement policies and procedures to prevent child sex abuse, failure to take reasonable measures to ensure that policies and procedures to prevent child sex abuse were working, failure to adequately inform families and children of the risks of child sex abuse, failure to investigate risks of child molestation, failure to properly train the employees at institutions and programs within Defendants' geographical confines, failure to train the parishioners within Defendants' geographical confines about the dangers of sexual abuse by clergy, failure to have any outside agency test their safety procedures, failure to protect the children in their programs from child sex abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, leaders and people as safe, failure to train their employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

76. Defendants also breached their duty to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Fr. Furmanski posed and the risks of child sexual abuse in Catholic institutions. They also failed to warn them about any of the knowledge that Defendants had about child sexual abuse.

77. Defendants additionally violated a legal duty by failing to report known and/or suspected abuse of children by Fr. Furmanski and/or its other agents to the police and law enforcement.

78. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Fr. Furmanski was not fit to work with children. Defendants, by and through their agents, servants and/or employees, became aware, or should have become aware of Fr. Timone's propensity to commit sexual abuse and of the risk to Plaintiff's safety. At the very least, Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Parish and other Catholic institutions within the Archdiocese of New York were safe.

79. Defendants knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Archdiocese. At the very least, Defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Archdiocese.

80. Defendants knew or should have known that Defendants had numerous agents who had sexually molested children. Defendants knew or should have known that child molesters have a high rate of recidivism. They knew or should have known that there was a specific danger of child sex abuse for children.

81. However, despite this knowledge, Defendants negligently deemed that Fr. Furmanski was fit to work with children; and/or that any previous suitability problems Fr. Furmanski had were fixed and cured; and/or that Fr. Furmanski would not sexually molest children; and/or that Fr. Furmanski would not injure children.

82. Defendants' actions created a foreseeable risk of harm to Plaintiff.

83. Plaintiff was a foreseeable victim.

84. Defendant's actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in its disregard for the rights and safety of Plaintiff.

85. As a direct and proximate result of Defendant's actions and omissions, Plaintiff suffered and will continue to suffer injuries, as described herein.

86. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**Third Cause of Action
Negligent Training and Supervision of Employees**

87. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint as if fully set forth herein.

88. At all times material, Fr. Furmanski was employed by Defendants and was under each Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged herein. Fr. Furmanski engaged in the wrongful conduct while acting in the course and scope of his employment with Defendants and/or accomplished the sexual abuse by virtue of his job-created authority.

89. Defendants had a duty, arising from their employment of Fr. Furmanski, to ensure that he did not sexually molest children.

90. Further, Defendants owed a duty to train and educate employees and administrators and establish adequate and effective policies and procedures calculated to detect, prevent, and address inappropriate behavior and conduct between clerics and children.

91. Defendants were negligent in the training, supervision, and instruction of their employees. Defendants failed to timely and properly educate, train, supervise, and/or monitor their agents or employees with regard to policies and procedures that should be followed when sexual abuse of a child is suspected or observed. Defendants were additionally negligent in failing to supervise, monitor, chaperone, and/or investigate Fr. Furmanski and/or in failing to create, institute, and/or enforce rules, policies, procedures, and/or regulations to prevent Fr. Furmanski's sexual abuse of Plaintiff.

92. In failing to properly supervise Fr. Furmanski, and in failing to establish such training procedures for employees and administrators, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

93. Defendant's actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in its disregard for the rights and safety of Plaintiff.

94. As a direct and proximate result of Defendant's actions and omissions, Plaintiff suffered and will continue to suffer injuries, as described herein.

95. By reason of the foregoing, the Defendant is liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

JURY DEMAND


96. Plaintiff demand a trial by jury on all issues so triable.

WHEREFORE Plaintiff demands judgment against the Defendant on each cause of action as follows:

- a) Awarding compensatory damages in an amount to be proved at trial, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- b) Awarding punitive damages to the extent permitted by law;
- c) Awarding prejudgment interest to the extent permitted by law;
- d) Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law; and
- e) Awarding such other and further relief as to this Court may seem just and proper.

Dated: November 7, 2019
New York, New York

Respectfully Submitted,



Kathleen Thomas, Esq.

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(NY Admission Pending)

Attorneys for Plaintiffs

ATTORNEY'S VERIFICATION

KATHLEEN R. THOMAS, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at **THOMAS LABARBERA COUNSELORS AT LAW, PC**, attorneys of record for Plaintiff. I have read the annexed **SUMMONS AND COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

This verification is made by me because the plaintiff in this matter is not presently in the county wherein I maintain my offices.

Dated: New York, New York
November 7, 2019



Kathleen R. Thomas, Esq.

Index No:

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SUPREME COURT COUNTY OF NEW YORK

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SUMMONS AND VERIFIED COMPLAINT

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To: All Parties
